



Council of the
European Union

Brussels, 21 November 2023
(OR. en)

15112/23

**Interinstitutional File:
2023/0399 (NLE)**

LIMITE

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL REGULATION amending certain Council Regulations concerning restrictive measures in order to insert provisions on humanitarian exceptions

COUNCIL REGULATION (EU) 2023/...

of ...

**amending certain Council Regulations concerning restrictive measures
in order to insert provisions on humanitarian exceptions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 215 thereof,

Having regard to the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission,

Whereas:

- (1) The Union is able to impose restrictive measures, including the freezing of funds and economic resources, against designated natural or legal persons, entities and bodies. Council Regulations give effect to such measures.
- (2) On 9 December 2022, the United Nations Security Council (UNSC) adopted United Nations Security Council Resolution (UNSCR) 2664 (2022). Paragraph 1 of UNSCR 2664 (2022) states that the provision, processing or payment of funds, other financial assets or economic resources or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by certain actors are permitted and are not a violation of the asset freezes imposed by the UNSC or its Sanctions Committees.

- (3) On 14 February 2023, the Council adopted Decision (CFSP) 2023/338¹ and Regulation (EU) 2023/331², which introduced the humanitarian exemption pursuant to UNSCR 2664 (2022) in the Union restrictive measures regimes that give effect to measures decided upon by the UNSC or its Sanctions Committees. On 31 March 2023, the Council adopted Decision (CFSP) 2023/726³ and Regulation (EU) 2023/720⁴, which introduced the humanitarian exemption pursuant to UNSCR 2664 (2022) in the Union restrictive measures regimes that give effect to the measures decided upon by the UNSC or its Sanctions Committees and in complementary measures decided upon by the Council.

¹ Council Decision (CFSP) 2023/338 of 14 February 2023 amending certain Council decisions and common positions concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJ L 47, 15.2.2023, p. 50).

² Council Regulation (EU) 2023/331 of 14 February 2023 amending certain Council Regulations concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJ L 47, 15.2.2023, p. 1).

³ Council Decision (CFSP) 2023/726 of 31 March 2023 amending certain Council Decisions concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJ L 94, 3.4.2023, p. 48).

⁴ Council Regulation (EU) 2023/720 of 31 March 2023 amending certain Council Regulations concerning restrictive measures in order to insert provisions on a humanitarian exemption (OJ L 94, 3.4.2023, p. 1).

- (4) In order to increase consistency and coherence across Union restrictive measures regimes and with those adopted by the UNSC or its Sanctions Committees, and to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs, the Council considers that an exemption to asset freeze measures applicable to, and to the restrictions on making funds and economic resources available to, designated natural or legal persons and entities, for the benefit of actors referred to in UNSCR 2664 (2022), organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate, organisations and agencies which are certified or recognised by a Member State, or Member States' specialised agencies should be introduced in certain Union restrictive measures regimes. Furthermore, the Council considers that a derogation mechanism should be introduced, or an existing derogation mechanism amended, for those organisations and actors involved in humanitarian activities that cannot benefit from that exemption.
- (5) On ... 2023, the Council adopted Decision (CFSP) 2023/...¹⁺, amending certain Council Decisions to insert provisions on humanitarian exceptions.

¹ Council Decision (CFSP) 2023/... of ... amending certain Council Decisions concerning restrictive measures in order to insert provisions on humanitarian exceptions (OJ L, ..., ELI: ...).

⁺ OJ: Please insert the number of the Decision contained in document ST 15110/23 and complete the footnote.

- (6) The amendments fall within the scope of the Treaty and therefore regulatory action at the level of the Union is necessary in order to implement them, in particular with a view to ensuring their uniform application in all Member States.
- (7) Council Regulations (EC) No 314/2004¹, (EU) No 1284/2009², (EU) No 101/2011³, (EU) No 401/2013⁴, (EU) 2015/1755⁵, (EU) 2017/2063⁶, (EU) 2019/796⁷, (EU) 2019/1716⁸ and (EU) 2021/1275⁹ should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

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- ¹ Council Regulation (EC) No 314/2004 of 19 February 2004 concerning restrictive measures in view of the situation in Zimbabwe (OJ L 55, 24.2.2004, p. 1).
- ² Council Regulation (EU) No 1284/2009 of 22 December 2009 concerning restrictive measures in view of the situation in Guinea (OJ L 346, 23.12.2009, p. 26).
- ³ Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia (OJ L 31, 5.2.2011, p. 1).
- ⁴ Council Regulation (EU) No 401/2013 of 2 May 2013 concerning restrictive measures in view of the situation in Myanmar/Burma and repealing Regulation (EC) No 194/2008 (OJ L 121, 3.5.2013, p. 1).
- ⁵ Council Regulation (EU) 2015/1755 of 1 October 2015 concerning restrictive measures in view of the situation in Burundi (OJ L 257, 2.10.2015, p. 1).
- ⁶ Council Regulation (EU) 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela (OJ L 295, 14.11.2017, p. 21).
- ⁷ Council Regulation (EU) 2019/796 of 17 May 2019 concerning restrictive measures against cyber-attacks threatening the Union or its Member States (OJ L 129 I, 17.5.2019, p. 1).
- ⁸ Council Regulation (EU) 2019/1716 of 14 October 2019 concerning restrictive measures in view of the situation in Nicaragua (OJ L 262, 15.10.2019, p. 1).
- ⁹ Council Regulation (EU) 2021/1275 of 30 July 2021 concerning restrictive measures in view of the situation in Lebanon (OJ L 277 I, 2.8.2021, p. 1).

Article 1

In Regulation (EC) No 314/2004, the following Article is inserted:

Article 7a

1. Article 6(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;
 - (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
 - (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;

- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.
2. Without prejudice to paragraph 1, and by way of derogation from Article 6(1) and (2), the competent authorities of the Member States as listed in Annex II may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.
3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.

4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.’.

Article 2

In Regulation (EU) No 1284/2009, the following Article is inserted:

‘Article 8a

1. Article 6(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
- (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;
 - (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;

- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

2. Without prejudice to paragraph 1, and by way of derogation from Article 6(1) and (2), the competent authorities of the Member States as indicated in the websites listed in Annex III may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.
4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.?

Article 3

In Regulation (EU) No 101/2011, the following Article is inserted:

‘Article 4a

1. Article 2(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;

- (b) international organisations;
- (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

2. Without prejudice to paragraph 1, and by way of derogation from Article 2(1) and (2), the competent authorities of the Member States, as listed in Annex II, may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.
3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.
4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.?

Article 4

In Regulation (EU) No 401/2013, Article 4da is replaced by the following:

‘Article 4da

1. Article 4a(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;
 - (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
 - (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;

- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.
2. Without prejudice to paragraph 1, and by way of derogation from Article 4a(1) and (2), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.
3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.

4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.’.

Article 5

In Regulation (EU) 2015/1755, the following Article is inserted:

‘Article 4a

1. Article 2(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
- (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;
 - (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;

- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

2. Without prejudice to paragraph 1, and by way of derogation from Article 2(1) and (2), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.
4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.?

Article 6

In Regulation (EU) 2017/2063, the following Article is inserted:

‘Article 9a

1. Article 8 (1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;

- (b) international organisations;
- (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

2. Without prejudice to paragraph 1, and by way of derogation from Article 8(1) and (2), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.
3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.
4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.?

Article 7

In Regulation (EU) 2019/796, the following Article is inserted:

Article 4a

1. Article 3(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;
 - (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
 - (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;

- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.
2. Without prejudice to paragraph 1, and by way of derogation from Article 3(1) and (2), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.
3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.

4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.’.

Article 8

In Regulation (EU) 2019/1716, Article 6 is replaced by the following:

‘Article 6

1. Article 2(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
- (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;
 - (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;

- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

2. Without prejudice to paragraph 1, and by way of derogation from Article 2(1) and (2), the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.
4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.’

Article 9

In Regulation (EU) 2021/1275, Article 4 is replaced by the following:

‘Article 4

1. Article 2(1) and (2) shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by:
 - (a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;
 - (b) international organisations;

- (c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;
- (d) bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;
- (e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;
- (f) Member States' specialised agencies; or
- (g) the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.

2. Without prejudice to paragraph 1, and by way of derogation from Article 2(1) and (2), the competent authorities may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.
4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under paragraphs 2 and 3 within four weeks of such authorisation.?

Article 10

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the Council

The President
